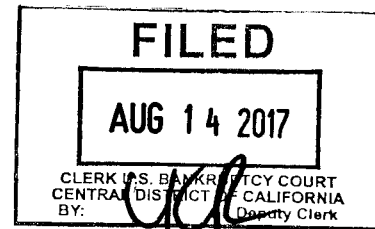


1 ANDREW K. JACOBSON (CSBN 148583)
2 **BAY OAK LAW**
3 1939 Harrison St, Suite 929
4 Oakland, CA 94612
5 Telephone: (510) 208-5500
6 Facsimile: (510) 208-5511

7 Counsel for Plaintiff
8 Eric Ruiz



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10
11 **CENTRAL DISTRICT OF CALIFORNIA**
12 **BANKRUPTCY COURT,**
13 **RIVERSIDE DIVISION**

14 **ERIC RUIZ, AN INDIVIDUAL,**
15 **PLAINTIFF,**
16 **v.**

17 **DAVID MOYES, DBA SoCAL PINBALL, AND**
18 **DOES 1 THROUGH 5, INCLUSIVE,**
19 **DEFENDANTS.**

Bankruptcy Court No.

6:17-bk-13823-MJ

Case No.

**COMPLAINT BY ERIC RUIZ FOR FRAUD
AND NON-DISCHARGEABILITY DUE TO
FRAUD 11 U.S.C. § 523(A)(2) AND (4)**

By Fax

20 Plaintiff Eric Ruiz complains as follows:

21 1. Plaintiff Ruiz lives in San Anselmo, California.

22 2. Defendant David Moyes lives in Lake Elsinore, California. He filed a
23 fictitious business name for SoCal Pinball with the Riverside County Clerk's office in
24 2010; the fictitious business name registration expired in February 2015, and there is no
25 record of it being renewed.

26 3. **Jurisdiction.** Ruiz is informed and believes, and therefore alleges, that
jurisdiction and venue are proper in this court because defendant has filed for
bankruptcy protection in Case No. 6:17-bk-13823-MJ, pursuant to Chapter 7 of the

1 bankruptcy code, and the debt may not be subject to discharge, pursuant to 11 U.S.C. §
2 523(a)(2), for money obtained under false pretenses, false representation, or actual
3 fraud.

4 4. **Factual Background.** Defendant Moyes advertised an “Addams Family
5 Pinball Machine” on ebay.com, through his fictitious business name, SoCalPinballs. A
6 true copy of the ebay advertisement is attached as Exhibit A and incorporated into this
7 complaint by this reference. While there is a picture of what purports to be the machine,
8 On or about March 1, 2007, plaintiff Ruiz came upon SoCalPinballs’ EBay advertisement.
9 Ruiz had questions about the machine, and telephoned Defendant Moyes about those
10 questions by acquiring his telephone number from Defendant Moyes’ website,
11 www.socalpinballs.com. The website, significantly, did not have a “no return” policy,
12 then or now.

13 5. Defendant Moyes sought to have all communications and sale of the
14 machine occur outside the EBay forum. He represented that the transaction would occur
15 faster if he sent a PayPal invoice by email, which Plaintiff Ruiz would then pay. That
16 representation was false. Further, Defendant Moyes concealed that by going outside of
17 EBay, he could avoid EBay’s policy guaranteeing the buyer’s money back in the event that
18 the product was unsatisfactory.

19 6. During the phone call, Defendant Moyes represented that the machine was
20 in “pristine condition,” had minimal wear and tear, and all aftermarket add-ons like LED
21 lights. By these representations, Defendant Moyes induced Plaintiff Ruiz to buy the
22 machine for \$6800, plus \$375 in shipping by PalPal, outside the EBay guarantee.

23 7. Defendants’ Moyes’ representations in the above paragraph were false.
24 When Ruiz received the machine on or about March 9, 2016, it was not in “pristine
25 condition,” but in fact was in an inferior condition: it has substantial wear and tear, lacks
26

7 **8.** Ruiz immediately contacted Defendant Moyes to arrange a return, who
8 claimed that he had already spent the money, and could not provide the money back. He
9 also claimed that there was a “no return” policy, which did not, and does not, actually
10 appear on his website, www.socalpinballs.com. Ruiz has caused the machine to be
11 returned to Defendant Moyes. However, Defendant Moyes refuses to return the money
12 he wrongfully took from Ruiz.

17 FIRST CAUSE OF ACTION

11. Defendant Moyes made representations, listed above, about the machine, in an effort to induce Ruiz to rely upon those representations to buy the machine outside of Ebay's money back guarantee.

26

1 purchasing the machine.

2 13. Ruiz has been damaged by Defendants' breach in the sum of \$7175.00.

3 Pursuant to Cal. Pen. Code § 496, that sum may be trebled, and an award of costs and
4 attorneys' fees may be made.

5 14. Pursuant to 11 U.S.C. § 523(a)(2), this court may not discharge the debtor
6 for this debt because of the underlying false pretenses, false representation, and actual
7 fraud in Defendant Moyes' conduct.

8

PRAYER FOR RELIEF

9

WHEREFORE, Ruiz prays for judgment against Defendants as follows:

10

1. For an order of non-dischargeability, pursuant to 11 U.S.C. § 523(a)(2);

11

2. For damages in a sum according to proof;

12

13 3. For exemplary damages under Cal. Penal Code § 496 in a sum according to
14 proof;

15

4. For attorney's fees to the extent allowed by law; and

16

5. For such other relief as the Court may deem proper.

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Respectfully submitted,

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Dated: August 11, 2017

BAY OAK LAW

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By: 

ANDREW K JACOBSON

Counsel for Plaintiff Eric Ruiz

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EXHIBIT A
EBAY ADVERTISEMENT



Model with model no. 1000

Have one to sell? Sell now

THE ADDAMS FAMILY PINBALL MACHINE LED'S, TV MOD, POLAR BEAR, PUGSLEY, LIMO, MORE

By Active Shipping OR LOGON DISCOUNTS - NO CALIFORNIAN SHIPPING

Item description

Ends: Mar 01, 2016, 7:00AM

Price: US \$6,795.00

Shipping: \$395.00 Economy Shipping (see details)
see details: 3 one Pugsley, California, United States
See item shipping rules

Delivery: Estimated within 4-13 business days (0)

Payments: PayPal (see details)

Returns: Seller does not offer returns. You are covered by the eBay Money Back Guarantee if you received an item that is not as described in the listing.

Guarantee: eBay's 30-Day Money Back Guarantee (see details)
Get the item you ordered or get your money back.
Covers your purchases once and original shipping.



Seller Information

socialpinball (2014 #)

99.2% Positive feedback

Follow the seller

See other items

Have one to sell? Sell now

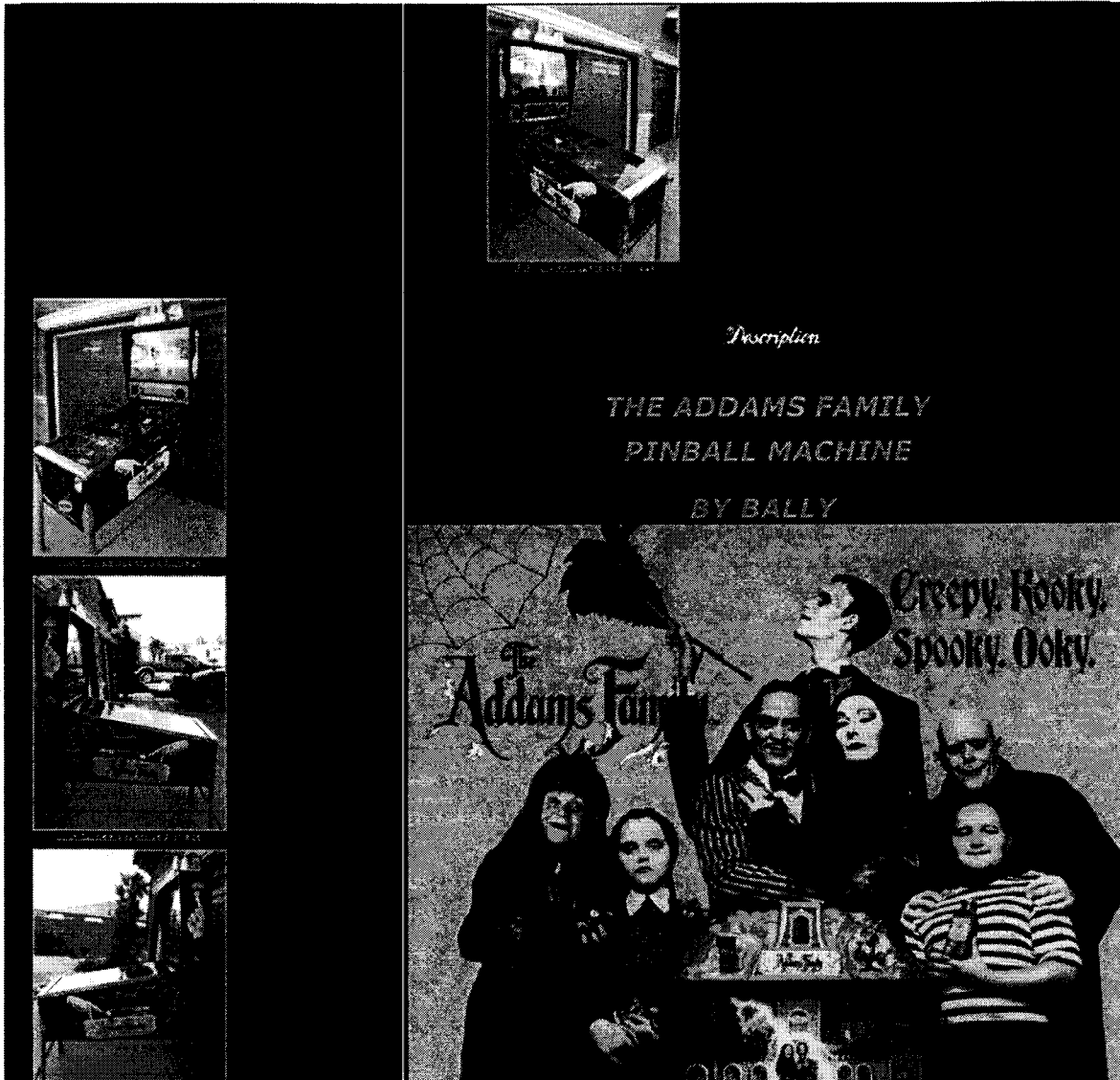
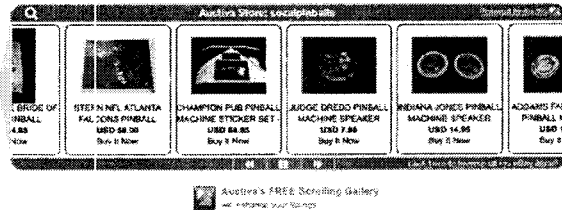
Description Shipping and payments

Report item

Assumes all responsibility for this listing.

Scrolled on: Feb 28, 2018 16:47:42 PST View all revisions

Item ID: 1017992002





A pinball experience for the whole family!

Created by the FUN HOUSE™ design team.

TM & © 1993 Paramount Pictures. All Rights Reserved. THE ADDAMS FAMILY Logo is a trademark of Paramount Pictures. Midway Manufacturing Company Authorized User. © 1993 Midway Manufacturing Company. Manufacturer of Bally Midway Entertainment Systems. All Rights Reserved.

Bally
Midway Manufacturing Company

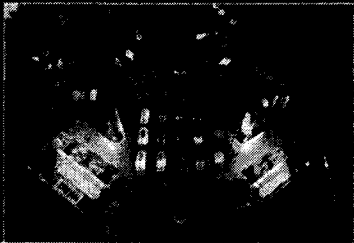
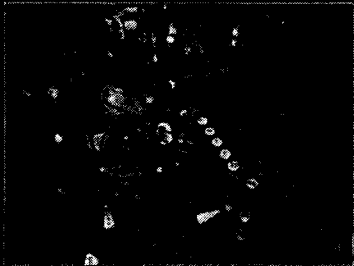
WME
1601 N. California Ave.
Chicago, IL 60616
(312) 267-2240
Fax (312) 267-6435

THE ADDAMS FAMILY BY BALLY IS A VERY EXCITING AND CHALLENGING PINBALL MACHINE THAT IS A HUGE FAVORITE FOR EVERY PINBALL ENTHUSIAST AND THE NUMBER 1 SELLING MACHINE OF ALL TIME.

THE ADDAMS FAMILY IS ALWAYS RANKED IN THE TOP 3 IN THE LIST OF BEST PINBALL MACHINES OF ALL TIME AND FOR GOOD REASON.

THE ADDAMS FAMILY HAS SO MANY FEATURES ON THE PLAYFIELD DESIGNED BY PAT LAWLOR WHO ALSO DESIGNED TWILIGHT ZONE.

WATCH THING COME FROM UNDER THE PLAYFIELD AND GRAB THE BALL AND DROP IT IN THE CELLAR. WATCH AS THE BOOKCASE REVOLVES ALLOWING ACCESS TO THE HIDDEN VAULT, AND ONE OF THE BEST SHOWS IN PINBALL CAN BE EXPERIENCED WHEN YOU REACH "SHOWTIME" WHERE THINGS REALLY GET FUN.



It is especially unusual and noteworthy testimony because that he ordered on May 10, 1968, that Oswald's picture be placed in The New Yorker magazine by a copy editor without notice to the FBI. The "JOURNALIST" was known to Oswald and all the persons and associates who had made a point of seeing him.

THE NATIONAL FOOTBALL LEAGUE (NFL) has announced that it will not allow players to wear their own religious symbols on the field during games. The league's policy is to maintain a neutral stance on religion, and it has decided that allowing players to wear religious symbols would be a violation of this policy. The league's policy is to maintain a neutral stance on religion, and it has decided that allowing players to wear religious symbols would be a violation of this policy.

[illegible][illegible]

Also, says the Michigan State teacher, the Michigan State Teacher Training School, which was founded in 1892, is now the largest and best equipped of its kind in the state. It has a fine building, a fine library, and a fine staff of teachers. It is a fine institution, and it is a fine example of what can be done in the state of Michigan.



Baker

HOLLYWOOD, CALIF. (UPI) — The Los Angeles
 Police Department has received information
 that a man, who is believed to be a
 member of the Black Panther Party, has
 been seen in the area of the
 3401 N. California Ave. (Chicago) 4-36415
 (L.A.) 267-2648, Fax (312) 267-2648

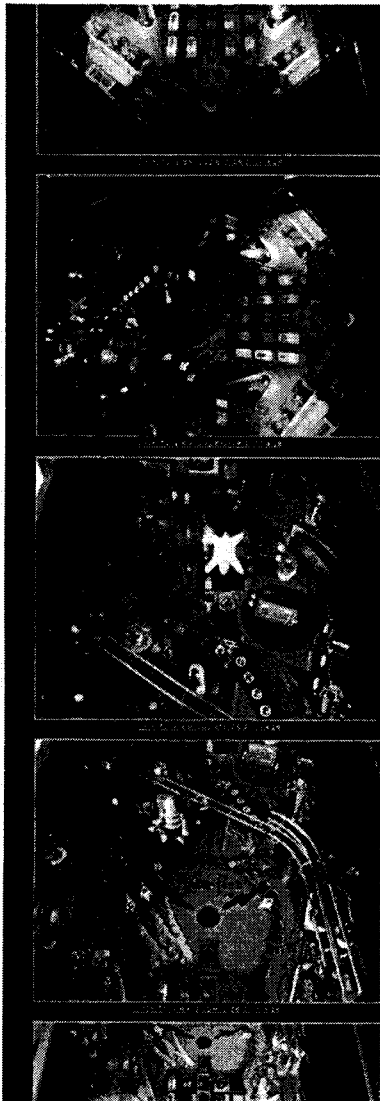
Weight 75 lbs
Height 5'10"
Age 27
DOB 11/11/54
SSN 1-11-111111
Maiden Name 1-11-111111



Germania Picta

* * * CONDITION OF MACHINE * * *

THE CABINET IS IN VERY NICE CONDITION. ANY SMALL NICKS HAVE BEEN TOUCHED UP. ALL METAL TRIM IS IN GREAT CONDITION AS WELL AS THE COIN DOOR. NEW LEG BOLTS AND PINCAB PROTECTORS HAVE BEEN ADDED. ALL KEYS COME WITH THE MACHINE AS WELL AS ALL THE MANUALS SHOWN. A BRAND NEW



*****CONDITION OF MACHINE*****

THE CABINET IS IN VERY NICE CONDITION. ANY SMALL NICKS HAVE BEEN TOUCHED UP. ALL METAL TRIM IS IN GREAT CONDITION AS WELL AS THE COIN DOOR. NEW LEG BOLTS AND PINCAB PROTECTORS HAVE BEEN ADDED. ALL KEYS COME WITH THE MACHINE AS WELL AS ALL THE MANUALS SHOWN. A BRAND NEW PLAYFIELD GLASS HAS ALSO BEEN INSTALLED.

THE PLAYFIELD IS IN VERY NICE CONDITION WITH A GLOSSY SHINE AND MINIMAL WEAR. ALL PLASTICS ARE PERFECT. COLORED POST SLEEVES HAVE BEEN ADDED. ALL THE RUBBER HAS BEEN REPLACED WITH NEW WHITE BANDS AND ALL NEW FLIPPER RUBBER. MOST THE GT LAMPS AND INSERTS HAVE BEEN UPGRADED TO LONG LASTING AND BEAUTIFUL COLORFUL LED LAMPS AS WELL AS MOST LAMPS IN THE BACK BOX.

I HAVE REPLACED ANY WORN COMPONENTS ON THE FLIPPERS TO ASSURE STRONG AND DEPENDABLE PLAY.

MODS INCLUDE:

POLAR BEAR MOD WITH LED EYES AND MOUTH.

TV MOD WITH SLIDESHOW OF DOZENS OF YOUR FAVORITE EPISODES.

PUGSLEY FIGURE SITTING IN THE ELECTRIC CHAIR.

AUTHENTIC LOOKING LIMO ABOVE THE RIGHT UPPER FLIPPER.

COLORED POST SLEEVES.

BLUE FLIPPER BUTTONS.

BLUE CABINET PROTECTORS.

CUSTOM APRON CARDS.

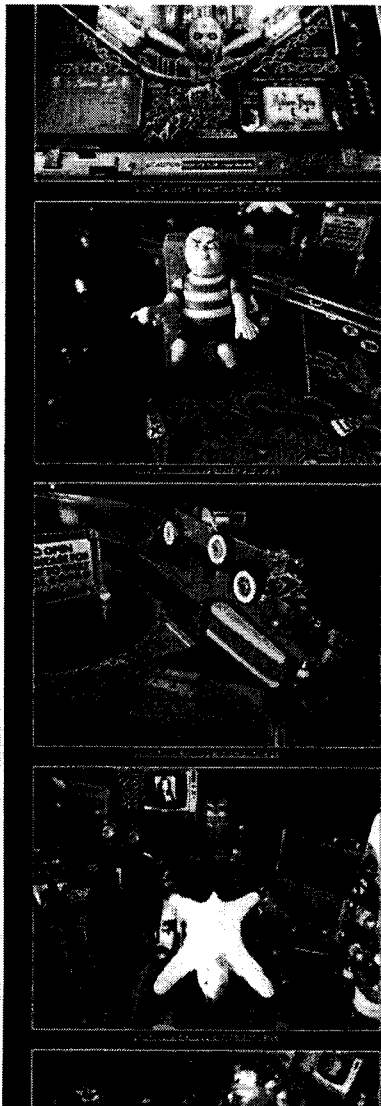
THIS IS A US MACHINE. NOT AN IMPORT.

FREE LOCAL DELIVER 75 MILES OF LAKE ELSINORE
CALIFORNIA

**BUY 2 PINBALL MACHINES
AND GET 2 FOR 1 SHIPPING!**

LOCAL PICK UP AND INSPECTION IS WELCOME.

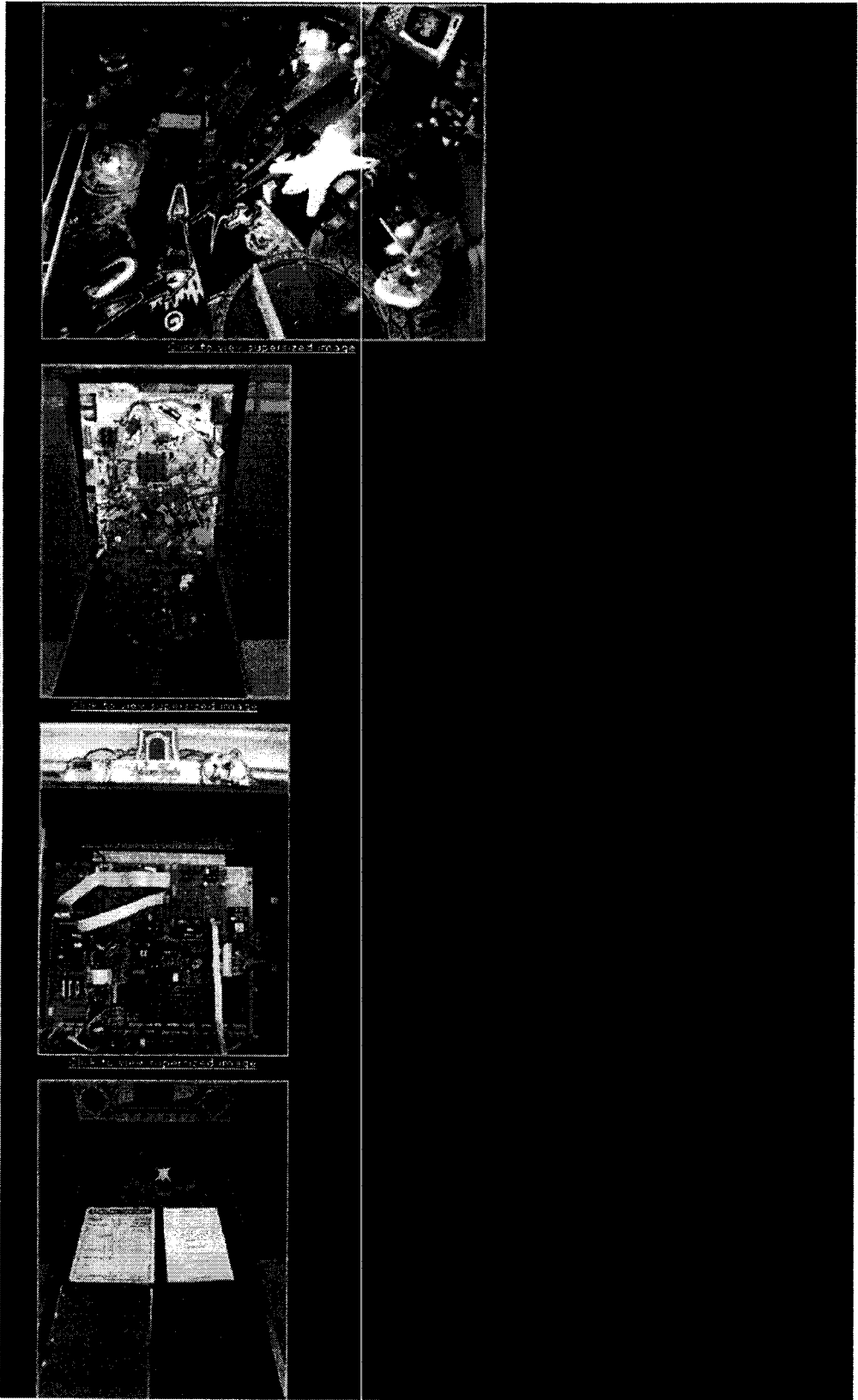
I CAN ALSO SHIP THIS MACHINE USING NORTH AMERICAN VAN LINES FOR \$395.00 ANYWHERE IN THE CONTINENTAL UNITED STATES. THEY ARE THE SAFEST AND MOST RELIABLE COMPANY TO DELIVER

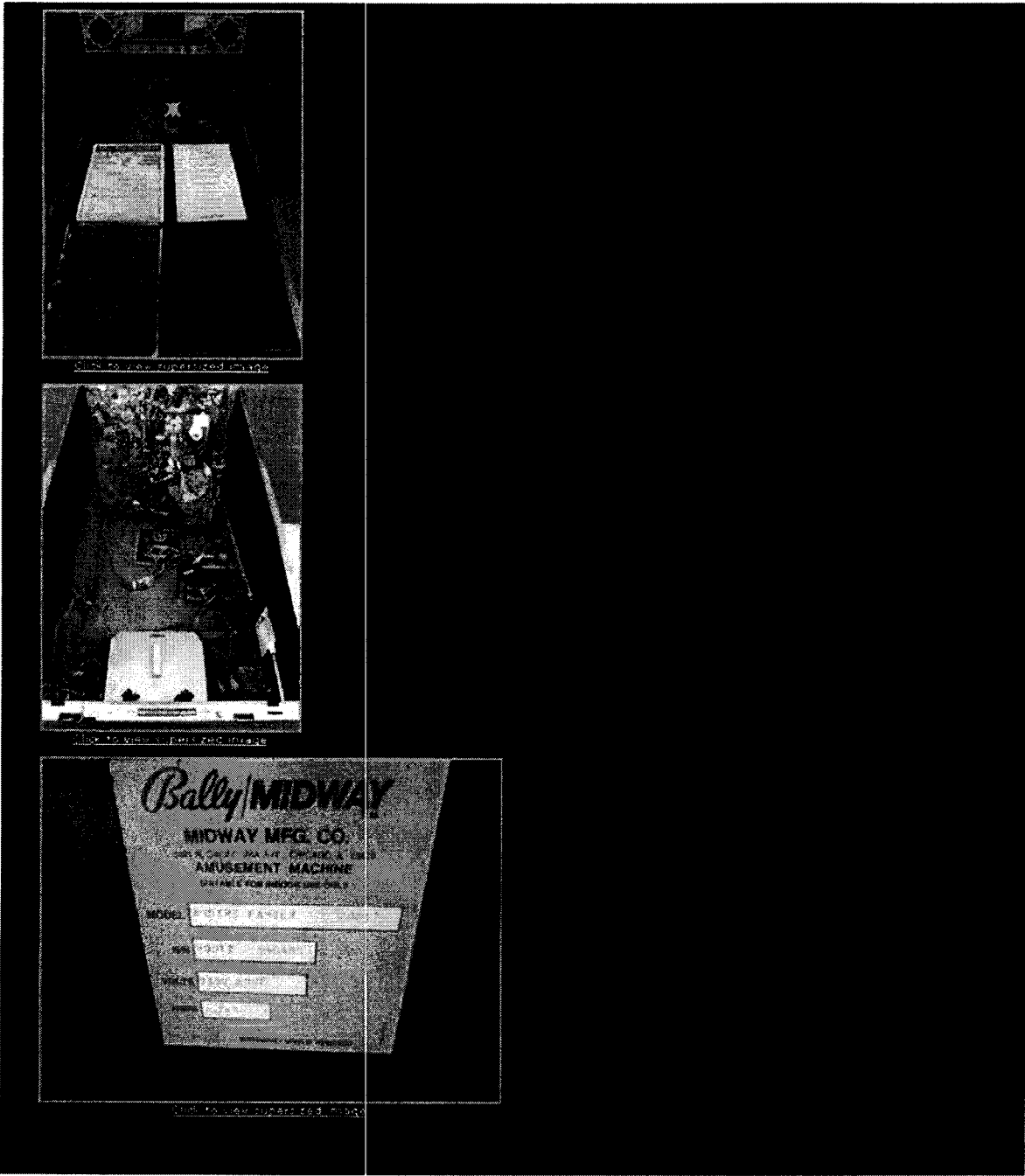


YOUR PINBALL MACHINE BLANKET WRAPPED WITH
THE LEGS ATTACHED RIGHT INSIDE YOUR HOME
GROUND LEVEL. I WILL BE HAPPY TO MAKE ALL
SHIPPING ARRANGEMENTS FOR YOU.

*If you would like to ask me any questions about this
machine or others I have for sale, please call David
at 951-454-9561 or email me.*

PLEASE READ MY FEEDBACK WITH MULTIPLE
PINBALL SALES AND BID WITH CONFIDENCE.





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EXHIBIT B

20

PICTURES OF ACTUAL MACHINE

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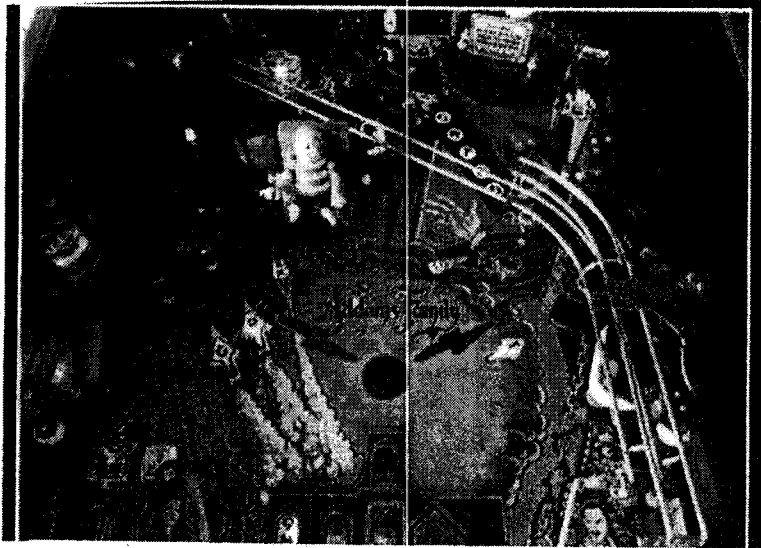
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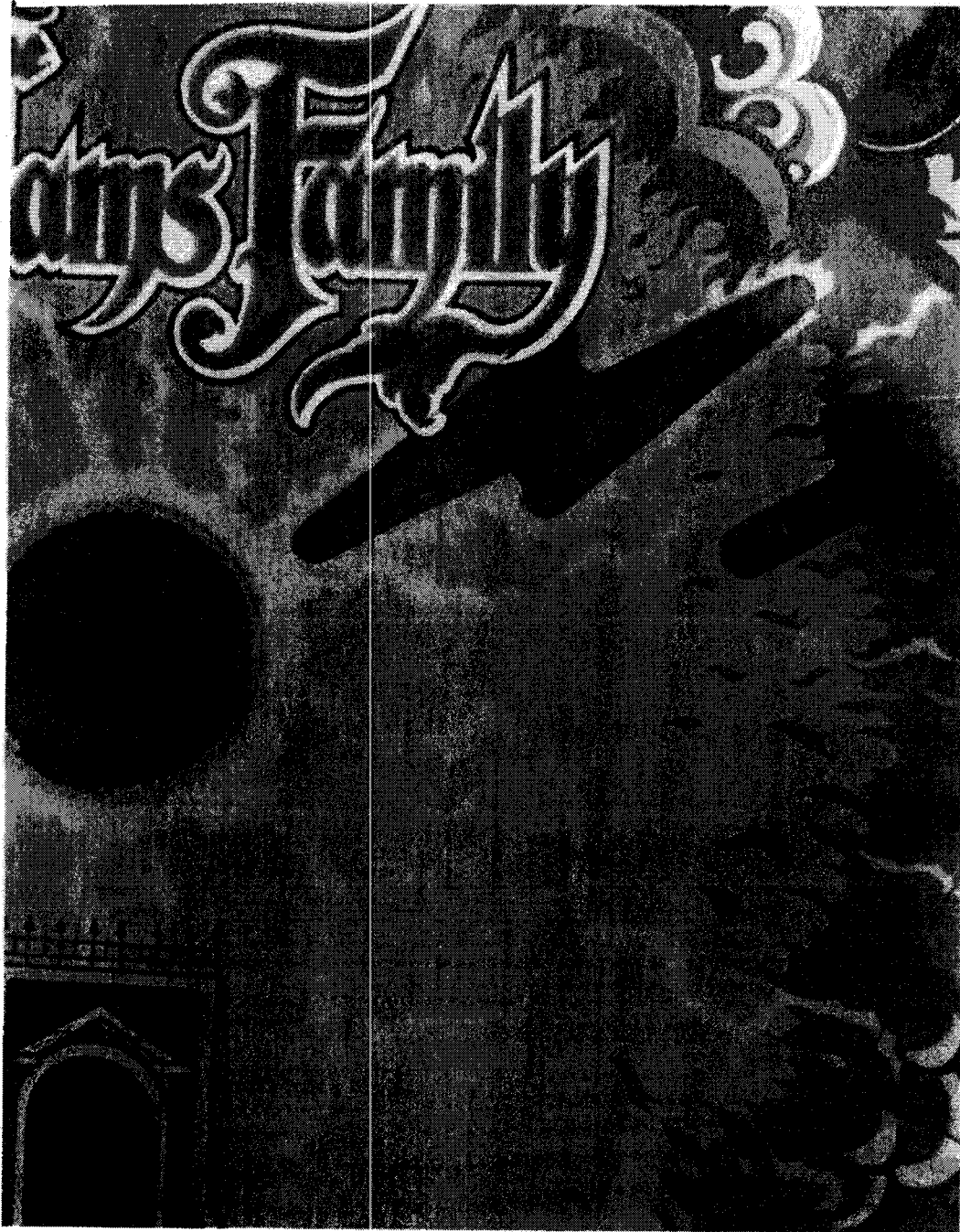
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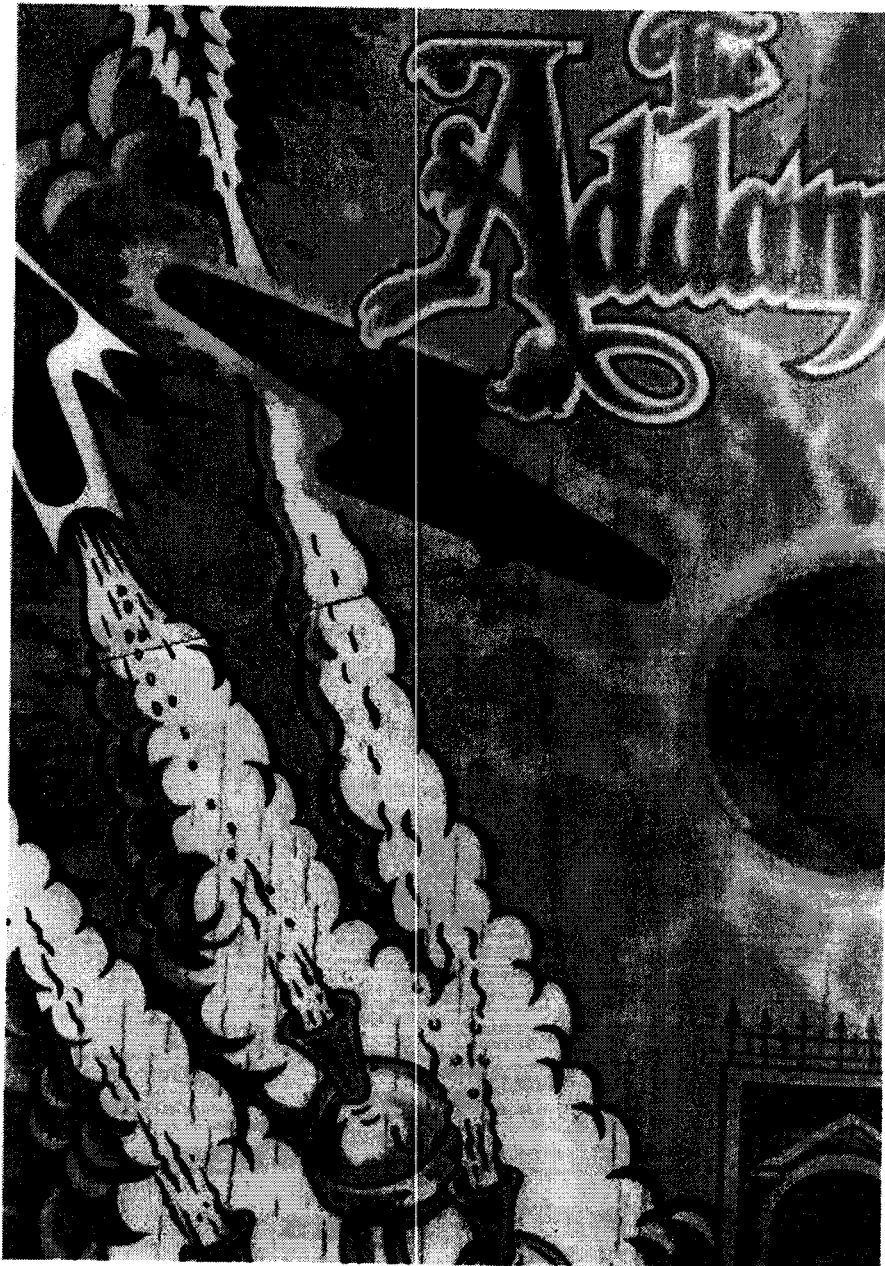
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(see full picture on following page)



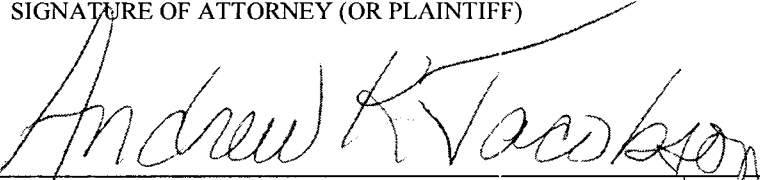




B1040 (FORM 1040) (12/15)

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFFS Eric Ruiz	DEFENDANTS David Alan Moyes, dba SoCal Pinball	
ATTORNEYS (Firm Name, Address, and Telephone No.) Andrew K Jacobson, Bay Oak Law CSBN 148583 1939 Harrison St, Ste 929 Oakland, CA 94612 Tel: 510-208-5500	ATTORNEYS (If Known) Kristen R Lamar, New Chapter Law Group 5927 Balfour Court, Ste 115 Carlsbad, CA 92008	
PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	PARTY (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) Fraud in the sale of a pinball machine that was falsely represented as to condition. Exempt from discharge pursuant to 11 USC 523(a)(2).		
By Fax		
NATURE OF SUIT		
(Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)		
FRBP 7001(1) – Recovery of Money/Property <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input checked="" type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input checked="" type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny (continued next column)	FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)	
<input checked="" type="checkbox"/> Check if this case involves a substantive issue of state law	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23	
<input type="checkbox"/> Check if a jury trial is demanded in complaint	Demand \$ 7175.00 plus treble damages per Cal. Pen. Code 496	
Other Relief Sought		

B1040 (FORM 1040) (12/15)

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR David Alan Moyes and Dawn Janine Moyes		BANKRUPTCY CASE NO. 6:17-bk-13823-MJ
DISTRICT IN WHICH CASE IS PENDING Central District of California	DIVISION OFFICE Riverside	NAME OF JUDGE Jury
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) 		
DATE August 11, 2017	PRINT NAME OF ATTORNEY (OR PLAINTIFF) Andrew K Jacobson, CSBN 148583	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.